

SM Exhibit Y

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ADRIAN SCHOOLCRAFT,

Plaintiff,

-against-

THE CITY OF NEW YORK, DEPUTY CHIEF MICHAEL
MARINO, Tax ID. 873220, Individually and in
his Official Capacity, ASSISTANT CHIEF
PATROL BOROUGH BROOKLYN NORTH GERALD
NELSON, Tax Id. 912370, Individually and in
his Official Capacity, DEPUTY INSPECTOR
STEVEN MAURIELLO, Tax Id. 895117,
Individually and in his Official Capacity,
CAPTAIN THEODORE LAUTERBORN, Tax Id.
897840, Individually and in his Official
Capacity, LIEUTENANT WILLIAM GOUGH, Tax Id.
919124, Individually and in his Official
Capacity, ST. FREDERICK SAWYER, Shield No.
2567, Individually and in his Official
Capacity, SERGEANT KURT DUNCAN Shield No.
2583, Individually and in his Official
Capacity, LIEUTENANT CHRISTOPHER BROCHART,

VERITEXT REPORTING COMPANY

212-267-6868

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516-608-2400

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2 Tax Id. 915354, Individually and in his
3 Official Capacity, LIEUTENANT TIMOTHY
4 CAUGHEY, Tax Id. 885374, Individually and
5 in his Official Capacity, SERGEANT SHANTEL
6 JAMES, Shield No. 3004, Individually and in
7 his Official Capacity, and P.O.'s "JOHN DOE"
8 #1-50, Individually and in their Official
9 Capacity, (the name John Doe being
10 fictitious, as the true names are presently
11 unknown) (collectively referred to as "NYPD
12 Defendants"), JAMAICA HOSPITAL MEDICAL
13 CENTER, DR. ISAK ISAKOV, Individually and
14 in his Official Capacity, DR. LILLIAN
15 ALDANA-BERNIER, Individually and in her
16 Official Capacity, and JAMAICA HOSPITAL
17 MEDICAL CENTER EMPLOYEE'S "JOHN DOE" #1-50,
18 Individually and in their Official
19 Capacity, (the name John Doe being
20 fictitious, as the true names are presently
21 unknown),

Defendants.

111 Broadway

New York, New York

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November 7, 2013

10:10 A.M.

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PORTION of DEPOSITION of THEODORE
LAUTERBORN, the Defendant in the
above-entitled action, held at the above
time and place, taken before Dawn Miller, a
Notary Public of the State of New York,
pursuant to court order and stipulations
between Counsel.

* * *

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2 Q. Did you consider this a transfer
3 or demotion or promotion transfer in
4 November 2009?

5 MS. METTHAM: Objection. You
6 can answer.

7 A. Transfer.

8 Q. Was there any change in your pay
9 grade?

10 A. No.

11 Q. Was there any change in your
12 title?

13 A. No.

14 Q. Who made the decision to transfer
15 you?

16 MS. METTHAM: Objection. You
17 can answer.

18 A. Specifically, I don't know.

19 Q. Do you have any understanding, at
20 all, as to who was involved in the decision
21 to transfer you?

22 A. No.

23 Q. What's your date of birth?

24 MS. METTHAM: Objection. I'll
25 allow him to answer with the year of

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2 his birth.

3 Q. All right. What is the year of
4 your birth?

5 A. 1969.

6 Q. Where do you, currently, reside?

7 MS. METHAM: Objection. I
8 will only allow you to answer whether
9 you live in the five boroughs.

10 A. I live within the five boroughs.

11 Q. Have you provided an address to
12 the court reporter?

13 A. As to?

14 Q. Your address?

15 A. My home address, no.

16 Q. What address have you provided?

17 A. My employer's address.

18 Q. What is that?

19 A. One Police Plaza.

20 Q. I understand.

21 MR. SMITH: I think we have
22 done this before, Suzanna. Will the
23 Law Department accept a subpoena for
24 trial for Captain Lauterborn in the
25 event that one needs to be issued?

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MS. METHAM: If he's still employed by the NYPD at the time of trial, we will accept a subpoena on his behalf.

MR. SMITH: If he's not employed, will you provide me with a contact address including home address, emergency contact information so if I need to, I can issue a subpoena for your appearance.

MS. METHAM: In no case would I provide you with his emergency contact information but we would take it under advisement and help to secure a subpoena on him at that time if it were so necessary.

MR. SMITH: Okay.

Q. Are you being represented in the action?

A. Yes, I am.

Q. By whom?

A. By the New York City Law Department.

Q. Do you have any understanding as

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2 phone, this could end." Is that a correct
3 statement?

4

5

MS. METTHAM: Objection. You
can answer.

6

7

A. Again, that appears to be
correct.

8

9 Q. Am I correct, that as of the time
10 that you were having this conversation with
11 Larry Schoolcraft, if Adrian Schoolcraft
12 had called you on the phone and told you he
13 was okay, you would have stopped your
14 investigation into the whereabouts of
Officer Schoolcraft; is that correct?

15

16

MS. METTHAM: Objection. Asked
and answered.

17

18

MR. KRETZ: Objection.

19

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A. Early on, yes, that was my
intention of this, if I heard from Adrian
Schoolcraft on the phone and I felt
everything was okay with him, he was just
sick, it probably, yes, would have ended at
that point.

24

25

Q. In fact, isn't it also true that
if Larry Schoolcraft had acted as an

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2 intermediary and had communicated to you
3 that he spoke to Adrian and confirmed to
4 you that Adrian was okay, that you would
5 have been satisfied and your investigation
6 into the whereabouts and condition of
7 Officer Schoolcraft would have stopped?

8 MS. METTHAM: Objection. You
9 can answer.

10 A. At the time, I wanted to go that
11 way but as I was talking to Mr.
12 Schoolcraft, I really wasn't sure about his
13 authentic declaration of him as far as his
14 whereabouts it was gonna be acceptable but,
15 again, it was all in the situation, I would
16 have to take that, you know, more of the
17 atmosphere of the conversation into
18 consideration as to whether or not I was
19 going to do that.

20 Q. I think I understand what you're
21 saying to me. I just want to clarify.

22 Am I correct; there was a point
23 during the day of October 31st 2009 when
24 you would have been satisfied with a report
25 back from the father that the son was okay;

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2 is that a fair statement.

3 MS. METHAM: Objection. You
4 can answer.

5 A. Again, all things being
6 considered, I would have probably used his
7 father, yeah.

8 MR. KRETZ: Objection.

9 Q. Then is it also fair to say that
10 during the course of the day, your
11 willingness to accept the father's
12 statement that he was okay, no longer
13 became something you were willing to
14 accept; is that right?

15 MS. METHAM: Objection. You
16 can answer.

17 A. Pretty much.

18 Q. Isn't it true that later on that
19 day you felt that it was important that
20 you, at least, be able to speak to Officer
21 Schoolcraft; isn't that correct?

22 MS. METHAM: Objection. You
23 can answer.

24 A. That's correct.

25 Q. If you had spoken, at least at

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2 some point during the day to Officer
3 Schoolcraft, there was a point in time
4 where merely speaking to him would have
5 been sufficient to satisfy your concerns
6 about his whereabouts and condition?

7 MS. METHAM: Objection. You
8 can answer.

9 MR. KRETZ: Objection.

10 A. Again, that was early on in the
11 investigation.

12 Q. I just want to make the record
13 clear. That doesn't -- I understand what
14 you're saying. I don't think the record is
15 clear about that you're saying.

16 Early on in the investigation
17 into the condition and whereabouts of
18 Officer Schoolcraft, there was a point
19 where simply speaking to Officer
20 Schoolcraft on the phone would have
21 satisfied your concerns; is that correct?

22 MS. METHAM: Objection. Asked
23 and answer. You can answer again.

24 A. That's correct.

25 MR. KRETZ: Objection.

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2 to me or they would have the doctor call me
3 but I don't remember, you know, having that
4 type of conversation one hundred percent.
5 But a doctor got back to me during the day.

6 Q. Am I correct; that in your P.G.
7 you were asked by IAB whether or not you
8 conferred with the Medical Division; isn't
9 that correct? You were asked that
10 question?

11 A. If I conferred with the Medical
12 Division at all that day, yes.

13 Q. IAB asked you that question, you
14 told them that you called out to them but
15 you never spoke them; isn't that right?

16 MS. METHAM: Objection.

17 Misstates prior testimony and the
18 testimony you read from the P.G. You
19 can answer.

20 MR. KRETZ: Objection.

21 A. Yes, I mean, I wasn't recalling
22 correctly but eventually I did get in touch
23 with a doctor and spoke to a female doctor.

24 Q. I understand that. What I want
25 to know is, whether or not the statements

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that you made to IAB were, in fact, a mistake?

A. There was some of it that was a mistake.

Q. One of the mistakes was that you told IAB that you called out to the Medical Division but you forgot about the call and you did speak to them?

MS. METTHAM: Objection.

A. That's what I said here.

Q. In fact, in hindsight, looking at other things, you now realize you forgot about that conversation; you did have a conversation with somebody in the Medical Division, isn't that right?

MS. METTHAM: Objection. You can answer.

A. That's correct.

Q. Turning to Page 67 of the transcript; am I correct, that you told IAB that you did not see any department property in Schoolcraft's residence on October 31st 2009?

A. That's what I remember, yeah.

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2 residence; do you see that?

3 MS. METTHAM: Can you give us
4 the line?

5 MR. SMITH: Top of the page.

6 A. Yes.

7 Q. Did you dispatch Broschart to go
8 to Schoolcraft's residence, right?

9 A. Yes.

10 Q. When Broschart got there and
11 learned what he learned from the landlord,
12 did he then convey to you the fact that the
13 landlord had told Broschart that they
14 believed that Schoolcraft was in his house?

15 MS. METTHAM: Objection.

16 A. At some point, he did, yeah.

17 Q. At some point before you entered,
18 right?

19 A. Yes.

20 Q. Later on in that same section of
21 Page 2, you refer to a conversation that
22 you had with Dr. Lamstein; do you see that?

23 A. Yes.

24 Q. Is it correct she told you she
25 didn't think Schoolcraft was a threat to

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MS. METTHAM: Objection. You

3

can answer.

4

A. Going through the proper

5

procedures, yes.

6

Q. I suspect the proper procedure is

7

to fill out a Sick Report?

8

A. Not at that point.

9

Q. Well, that's what he did. He

10

filled out a Sick Report; didn't he?

11

A. There has to be further

12

notification being made and I never saw a

13

Sick Report he wrote out.

14

Q. You never saw a Sick Report?

15

A. I don't remember seeing one.

16

Q. I show you what's been marked as

17

Exhibit Number 26.

18

MR. SMITH: Mark this as

19

Plaintiff's 26. Bates Stamp Number

20

NYC 286061.

21

(Sick Report was marked as

22

Plaintiff's Exhibit 26 for

23

identification. Exhibit retained by

24

counsel.)

25

Q. Do you recognize this as a Sick

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2 the time, female Sergeant.

3 Q. She said something to you?

4 A. I asked. I think I asked her. I
5 don't know how it came about but he didn't
6 call in his sick or neither did she, if
7 that's the case.

8 Q. She could have called it in, too?

9 A. If Schoolcraft was unable to.

10 Q. She could have called it in or he
11 could have called it in, right?

12 MS. METHAM: Objection.

13 A. Since Adrian Schoolcraft was
14 there, he could call it in. If somebody
15 calls in sick from home, the Sergeant would
16 call the Medical Division for that person.

17 Q. It's your understanding that if
18 somebody is on duty or about to report to
19 duty and they report to a superior that
20 they're sick and they're too sick to
21 actually fill out the whole report,
22 somebody else can do it for them; is that
23 right?

24 MS. METHAM: Objection.

25 A. If they were too sick, they felt

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2 Q. Who did you reach out to?

3 A. I had the Sergeant ask amongst
4 the Police Officers that were working that
5 day if they had Schoolcraft's personal cell
6 phone number so that we could call it.

7 Q. Did you get an answer to that
8 question?

9 A. I recall that she had spoke a
10 Police Officer that had his cell phone who
11 tried calling it. I'm not sure if that
12 person left a message or not but it went to
13 voicemail, he never picked up.

14 Q. What was the next thing you did?

15 A. Then I could still try to have
16 the Sergeant reach out to him with his cell
17 phone hoping that he would pickup.

18 Q. What was the next thing that
19 happened after that?

20 A. At a certain point, Inspector
21 Mauriello comes in, I let him know what was
22 going on. Then more members of the 4 to 12
23 tour were coming in. I had asked the
24 Sergeant to check in with those Police
25 Officers and see if they had his cell phone

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2 and if there was somebody else that could
3 reach out to him.

4 Q. When you told Mauriello what was
5 going on, what did he tell you?

6 A. I gave him the run-down of what
7 happened a short time ago and he asked me
8 what I was doing and I told him, "We are
9 trying to reach out to him and see the
10 extent of his sickness and why he left the
11 way he did."

12 Q. Did Mauriello tell you to notify
13 anybody about your investigation into
14 Schoolcraft's status or sickness?

15 MS. METHAM: Objection. You
16 can answer.

17 A. No, I don't believe he did.

18 Q. What happened next?

19 A. Again, in summary, there was a
20 new tour coming in. I had approached
21 Lieutenant Broschart about him having to go
22 to Adrian Schoolcraft's house to see if he
23 went home.

24 Q. You told Broschart to go to his
25 home and find out if he was there; is that

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1

2 right?

3 A. Yes.

4 Q. What happened next?

5 A. I was waiting for Broschart to
6 get to his house to see the results of
7 that.

8 Q. You were waiting at the 81?

9 A. Yes.

10 Q. Did Broschart eventually report
11 back to you?

12 A. Yes, he did.

13 Q. When did he do that?

14 A. I don't know the exact time but
15 there was a point where he either -- he
16 reached out to me or I called him. From
17 what I could remember, he said he tried
18 knocking on the door, yelling Adrian's
19 name, there was no answer. He interviewed
20 the landlord who said that he had come
21 home. I don't know if he said he saw him
22 come home or he heard him upstairs, and
23 Lieutenant Broschart thought that he saw
24 movement through the front window, he lived
25 on the second floor, but he couldn't be one